

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.
2019 JUL 26 PM 4:44

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SO. DIST. OF GA.

UNITED STATES OF AMERICA

v.

JOSEPH ELLICK

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CR 102-011

O R D E R

On February 11, 2002, a grand jury returned a seven-count Indictment against Defendant Joseph Ellick and a co-defendant, Tyrone Williams. Ellick was charged in three counts of the Indictment - Counts 1, 4, and 7. Count 7 was later severed from the Indictment, and the Government submitted a redacted version of the Indictment for trial purposes. Ellick proceeded to trial in September 2002 on Count 4 (Attempt to Possess with Intent to Distribute Cocaine) and Count 1 (Conspiracy to Possess with Intent to Distribute and Distribution of more than 50 Grams of Cocaine Base).

At the close of evidence, Ellick moved for judgment of acquittal pursuant to Federal Rule of Criminal Procedure 29. The Court reserved decision on the motion and submitted the case to the jury. On September 23, 2002, Ellick was convicted on Count 4 and acquitted on Count 1. On October 8, 2002, Ellick filed a

"Renewed Motion for Judgment of Acquittal and Motion for New Trial." While the matter was pending, the Court sentenced Ellick to serve 57 months in prison on December 23, 2002.

Subsequently, in a thirty-six page Order entered on May 7, 2003, the Court granted Ellick's Rule 29 motion and announced that Ellick is "ACQUITTED of and HEREBY DISCHARGED on the charges brought against him in this case under Counts 1 and 4 of the Indictment." On May 8, 2003, the Court entered an Order dismissing the severed Count 7 of the Indictment upon motion of the Government. The Clerk of Court entered the Orders of May 7th and 8th on the docket of the case on May 9, 2003, as docket number 165 and 166 respectively. The Clerk duly terminated Count 7 pursuant to the dismissal order. Count 1 had been previously terminated through the acquittal. Unfortunately, however, the Clerk failed to execute the Order of May 7th and terminate Count 4 on the record. Accordingly, as it stands today, the record of this case reflects that Joseph Ellick was convicted on Count 4 of the Indictment¹ and sentenced to serve 57 months in prison.

On July 25, 2019, this Court received a certified letter from Ellick as well as a Motion to Clarify Docket. Understandably, Ellick asks that the Court instruct the Clerk of Court to properly

¹ The docket lists Count 4 as a "pending count" with the disposition of 57 months imprisonment.

docket the Order of May 7, 2003 to reflect the termination of Count 4.

Upon review of the motion and the record of this case, it is lamentably clear that Ellick is correct. The Clerk of Court failed to execute the discharge of Count 4 in the record of this case. Accordingly, his motion to clarify the record (doc. no. 182) is **GRANTED**. The Clerk of Court is directed to correct the record in this case to show that Defendant Joseph Ellick was acquitted on Count 4 pursuant to the Order of May 7, 2003. The Clerk is further directed to send a certified copy of this Order and an excerpt of the corrected docket sheet to Ellick.

ORDER ENTERED at Augusta, Georgia, this 26th day of July, 2019.


UNITED STATES DISTRICT JUDGE